

PUBLIC SAFETY COMMITTEE

11-049-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE IX, SECTION 6-97 AND
ADDING A NEW SECTION 6-98, OF THE DULUTH CITY CODE,
1959, AS AMENDED, PERTAINING TO DANGEROUS DOGS.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Article IX Section 6-97 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 6-97. Authority to order euthanasia; procedure.

(a) ~~The animal control authority, is authorized to order, as part of the disposition of the case, that the dog be euthanized based on one or more of the following findings of fact~~A dog may be euthanized by the animal control authority if:

(1) The dog is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(2) The owner, if known, of the dangerous dog has demonstrated an inability or unwillingness to control the dog in order to prevent injury to persons or other animals;

(b) ~~Procedure. The court or the animal control authority, after having determined that a dog is dangerous, may proceed in the following manner.~~The animal control authority may not euthanize the dog until the dog owner has had the opportunity for a hearing before an administrative hearing officer as set forth in Section 6-98;

~~(1) The animal control authority shall cause one owner of the dog, if known, to be notified in writing or in person that the dog is dangerous and that an order is issued requiring the dangerous dog to be euthanized. If the dog is not already impounded, the animal control authority shall order the dog seized. The owner, if known, shall be notified and shall be given 14 days to~~

~~appeal this order by requesting, in writing, a hearing before the administrative hearing officer for a review of this determination;~~

(2c) If no appeal is filed, the orders issued will stand and the animal control authority may euthanize the dangerous dog;

(3d) Nothing in this Section shall prevent the animal control authority from ordering the immediate ~~destruction~~ euthanizing of a rabies-suspected animal pursuant to Chapter 6, Article III, of the Duluth City Code.

Section 2. That Section 6-98 of the Duluth City Code is hereby created to read as follows:

Sec. 6-98. Appeal of potentially dangerous or dangerous dog designations; euthanasia.

The owner of any dog declared potentially dangerous or dangerous or seized for euthanasia, other than a rabies-suspected dog subject to immediate euthanizing pursuant to Article III of this Code, has the right to a hearing by the administrative hearing officer as follows:

(a) The animal control authority shall give notice of this Section by delivering or mailing the notice to one owner of the dog, if known, or by posting a copy of the notice at the place where the dog is kept, or by delivering it to a person of suitable age and discretion residing on the property or by delivering the notice by electronic means. The notice must include:

(1) A description of the dog, the authority for and purpose of the potentially dangerous or dangerous dog designation or seizure; the time, place and circumstances under which the dog was declared or seized; and the telephone number and contact person for the entity having custody and control of the dog;

(2) A statement that the owner of the dog may request a hearing concerning the declaration or seizure and that the request

for a hearing must be in writing and must specify the grounds relied upon for the appeal. The written request for a hearing must be received by the office identified in the notice within 14 days of the date of the notice. Failure to comply with these requirements and to pay the required appeal fee within the 14-day time period will terminate the owner's right to a hearing;

(3) A statement that if the hearing officer affirms the potentially dangerous or dangerous dog designation, the owner will have 14 days from receipt of that decision to comply with all requirements of this Article, Chapter 347 of the Minnesota Statutes and other requirements as ordered, if any;

(4) A form to request a hearing; and

(5) A statement that all actual costs of the care, keeping, and disposition of the dog are the responsibility of the owner, except to the extent that a court or hearing officer finds that the seizure or impoundment was not substantially justified by law;

(b) The owner must pay a fee, as established by the city council, in order to file the request for an appeal hearing;

(c) The appeal hearing will be held within 14 days of the filing of the appeal. The hearing officer must be an impartial person retained by the city to conduct the hearing. If the hearing officer upholds the declaration or seizure of the dog, actual expenses of the hearing will be the responsibility of the dog's owner. The hearing officer will issue a decision on the matter within ten days after the hearing. The decision shall be provided to the dog's owner by U.S. mail at the address listed on the appeal notice. A copy of the decision shall also be provided to the animal control authority. The decision of the hearing officer is final, subject only to appeal to the appellate courts, pursuant to

Minnesota Statutes Section 606.01;

(d) An owner's right to appeal or otherwise contest a declaration or seizure by the animal control authority shall be deemed waived if the owner fails to timely file an appeal, as set forth herein, or fails to appear at any scheduled hearing date.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

Approved:



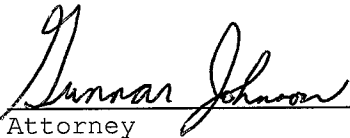
Department Director

Approved for presentation to council:




Chief Administrative Officer

Approved as to form:



Attorney

Approved:



Auditor

DPD/ATTY TLL:dma 09/28/2011

STATEMENT OF PURPOSE: This ordinance amends Article IX of the Duluth City Code regarding dangerous dogs. The purpose of this ordinance is to set forth the process for appealing an order or designation of the animal control officer.